

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JAMES H. DEVLIN,

Plaintiff,

Case No. 04-74192

vs.

HONORABLE GERALD E. ROSEN
HONORABLE STEVEN D. PEPE

CHEMED CORPORATION,
Defendants.

_____/

ORDER DENYING PLAINTIFF'S MOTION TO COMPEL
PRODUCTION OF WITNESSES FOR DEPOSITION (#23)

Following a telephonic hearing on June 24, 2005, and for reasons stated herein and on the record, Plaintiff's May 6, 2005, Motion to Compel Production of Witnesses for Deposition is DENIED.

Plaintiff filed and mailed Notices of Deposition on April 29, 2005, which was the discovery cut-off date, for four out-of-state individuals to be deposed at the office of Plaintiff's counsel on April 30, 2005. Judge Rosen in his Scheduling Order of December 2, 2004, clearly noted the discovery cut-off date and emphasized that discovery should be initiated in advance of the discovery cut-off date. Deposition notices also require reasonable advance notice. The mailed notices were not received until after the date for the depositions had passed. No allowance was made for travel time. Plaintiff's counsel procedurally defaulted in seeking these depositions, failing to provide adequate notice reasonably in advance of the cut-off date.

In addition, even if these notices were timely, Plaintiff's counsel provided no evidence that the individuals he sought to depose possess any knowledge of Plaintiff's severance package that could not be obtained more easily from a different source. The court may limit discovery if

the information sought “is obtainable from some other source that is more convenient, less burdensome, or less expensive,” Fed. R. Civ. P. 26(b)(2)(i). In this case, Plaintiff’s counsel failed to show that these individuals could contribute substantially more information than CEO Kevin McNamara, who has already been deposed, or Employee Benefits Coordinator Sparks.

Any party may file objections to this order within ten (10) days of service of this order pursuant to FED. R. CIV. P. 72(a) and Local Rule 72.1(d).

SO ORDERED.

June 24, 2005
Ann Arbor, Michigan

s/Steven D. Pepe
United States Magistrate Judge

Certificate of Service

I hereby certify that on June 24, 2005, I electronically filed the foregoing order with the Clerk of the Court using the ECF system which will send notification of such filing to the following: All Counsel of Record.

s/William J. Barkholz
Courtroom Deputy Clerk